

The 27th May, 1976

No. 3484-4Lab-76/15237.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak in respect of the dispute between the workmen and the management of M/s Surendra Engineering Works, Pinjore, (Kalka).

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, LABOUR COURT, HARYANA, ROHTAK

Reference No. 88 of 1974

between

SHRI PARAS RAM, WORKMAN AND THE MANAGEMENT OF M/S SURENDRA ENGINEERING WORKS, PINJORE, (KALKA).

AWARD

By order No. ID/AMB/314-B-74/39083, dated 4th December, 1974, the Governor of Haryana, referred the following dispute between the management of M/s Surendra Engineering Works, Pinjore (Kalka) and its workman Shri Paras Ram to this Labour Court, in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the termination of services of Shri Paras Ram was justified and in order? If not, to what relief is he entitled?

The parties put in their appearance in this court in response to the usual notices of reference sent to them.

Whereas the workman alleged that his services had been terminated by the management without assigning any reason, in order to victimise him for his trade union activities, the management pleaded that he had been absenting himself from duty with effect from 26th February, 1974 and that he was finally paid off on 3rd April, 1974 on a request made by him in full and final settlement of all his claim against them.

The following issues were thus framed on pleas of the parties,—*vide* order dated 17th May, 1975—

- (1) Whether it is case of self abandonment of service by the workman?
- (2) Whether the workman has settled the dispute and received his dues in full and final settlement of his entire claim against the management including the right of reinstatement and re-employment?
- (3) Whether the termination of services of Shri Paras Ram was justified and in order? If not, to what relief is he entitled?

The management examined Shri Som Chand Gupta, Labour Inspector, Ambala Cantt as M. W. 1 on 13th January, 1976 when the case was adjourned to 23rd March, 1976 for recording their remaining evidence. The workman absented himself on 23rd March, 76 despite being directed to appear on that date with the result that *ex parte* proceedings were taken up against him and the *ex parte* statement of Shri P. C. Mittal, one of the partners of the management was recorded.

Shri P. C. Mittal, deposed with reference to the attendance register of the employees brought by him, that Shri Paras Ram concerned workman absented himself from duty on 25th February, 1974 and continued to do so till 22nd March, 1974 when his name was struck off the rolls on account of his long absence. He added that the entries in the attendance register relating to the workmen concerned were in his hand writing and correct. He brought on record the copy of the relevant entries Ex. M-3 and further gave out that the workman received a sum of Rs. 168 from the management,—*vide* voucher Ex. M-4 in full and final settlement of his account, under his signatures and that he made his statement Ex. M-2 before the Labour Inspector in his presence.

Shri Som Chand Gupta, produced the original complaint Ex. M-1 received by him from the workman and the statement Ex. M-2 subsequently received by him from the latter. He added that Shri Paras Ram had told him in Pinjore during his visit there that his dispute with the management had been amicably settled. The letter Ex. M-2 dated 3rd April, 1974 purporting to be under the signatures of Shri Paras Ram bears an averment that the demand of the latter had been amicably settled.

I see no reason to disbelieve the statement of Shri Som Chand Gupta, M. W. 1 and Shri P. C. Mittal one of the partners particularly when the proceedings, against the workman are *ex parte* and he has taken no care to pursue the demand raised by him on the management. Even otherwise the evidence

of Shri Som Chand Gupta and Shri P. C. Mittal is found corroborated,—*vide* documents Ex. M-1 to M-4. I accordingly while relying on their evidence hold in favour of the management on issues Nos. 1 and 2. It would thus appear that the workman abandoned his job voluntarily by absenting himself from duty with effect from 25th February, 1974, and accepted a sum of Rs. 168 on 3rd April, 1974 from the management,—*vide* voucher Ex. M-4 in full and final settlement of all his claim against them and that the management never terminated his services.

I, therefore, while deciding issues Nos. 1 and 2 in favour of the management hold that the management did not terminate the services of the workman and he is as such not entitled to any relief. I answer the reference while returning the award in terms of the findings made by me.

MOHAN LAL JAIN,

Dated the 2nd April, 1976.

Presiding Officer,
Labour Court, Haryana, Rohtak.

No. 829, dated 2nd April, 1976.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

MOHAN LAL JAIN,

Presiding Officer,
Labour Court, Haryana, Rohtak.

No. 3029-4Lab-76/15239.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak, in respect of the dispute between the workmen and the management of M/s Model Co-operative Transport Co. Ltd., Mehrauli Road, Gurgaon.

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, LABOUR COURT,
HARYANA, ROHTAK

Reference No. 25 of 1970 and No. 33 of 1970

between

SHRI RAM NARAIN, WORKMAN AND THE MANAGEMENT OF M/S MODEL CO-OPERATIVE
TRANSPORT CO. LTD., MEHRAULI ROAD, GURGAON

AWARD

The Governor of Haryana,—*vide* order No. ID/GG/30-B-69/17462, dated 20th June, 1969, referred the following dispute between the workmen and the management of M/s Model Co-operative Transport Co. Ltd., Mehrauli Road, Gurgaon, for adjudication by this Court in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947. This reference was registered as No. 25 of 1970 :—

Whether Shri Ram Narain should be paid wages, bonus and uniform for the period from 2nd December, 1965 to 31st August, 1966. If so, with what details?

The Governor of Haryana,—*vide* order No. ID/14970, dated 26th May, 1969, referred the following dispute between the workman and the management of M/s Model Co-operative Transport Co. Ltd., Mehrauli Road, Gurgaon for adjudication by this court, in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947. This reference was registered as No. 33 of 1970 :—

Whether Shri Ram Narain is entitled to the wages, bonus and uniform allowance for the period from 1st November, 1960 to 12th March, 1961. If so, with what details?

This award shall dispose of this reference and reference No. 33 of 1970 consolidated together,—*vide* order dated 25th November, 1970, with the consent of the parties on the ground that common question of facts and law were involved therein.

The parties put in their appearance in this Court in response to the usual notices of each reference sent to them and filed their pleadings. The management raised a preliminary objection in each reference that the dispute as stated above had been referred to this Court on a demand not espoused by a substantial number of workmen and it did not relate to the discharge, dismissal or termination of the services of the workman within a meaning of section 2-A of the Industrial Disputes Act, the reference

was bad in law. The management otherwise denied the correctness of the claim made by the workman. The following issues were thus framed on the pleas of the parties,—*vide* order dated 21st October, 1970 and 12th January, 1972:—

- (1) Whether there is no industrial dispute between the parties as defined under the Industrial Disputes Act?
- (2) Whether the present reference is bad in law?
- (3) Whether Shri Ram Narain should be paid wages, bonus and uniform for the period in dispute? If so, with that details?
- (4) Whether the present dispute has been espoused by a substantial number of workmen employed in the respondent and for this reason the reference is valid?

I have heard learned authorised representatives for the parties with reference to the evidence led by them on record.

Shri Ram Narain workman appeared as his own witness and examined Shri R. N. Roy. The workman deposed that the workman had espoused his demand,—*vide* authority letters W. W. 1/1 and W. W. 1/2 under their signatures and that they were on that date members of the union and workmen of the management. No documentary evidence was, however, led to show that the signatories of W. W. 1/1 and W. W. 1/2 were members of the union or workmen of the management on the relevant dates. Even Shri R. N. Roy appearing as W. W. 2 admitted that he did not bring the membership register of the union or the receipt book thereof. The oral statement of the workman that the signatories of W. W. 1/1 and W. W. 1/2 were members of the union and workmen of the management was not corroborated even by Shri R. N. Roy the alleged president of the union who only produced the printed copy of the constitution of the Mercantile Employees Association and deposed about raising of the demand leading to the reference on the management. Such an oral statement cannot be relied upon.

It is further significant to note that the workmen did not summon the original authority if any attached with the notice of demands filed with the Conciliation Officer, and the possibility of W. W. 1/1 and W. W. 1/2 being fabricated subsequently cannot be ruled out. Above all there is not an iota of evidence on record for the workmen to prove the total number of the workmen of the management on 25th February, 1969 the date of raising of the demand and it can not as such be said that the demand was raised under an authority of a substantial number of workmen even if W. W. 1/1 and W. W. 1/2 are assumed as correct and genuine documents.

Considered from any angle the dispute stated above relating to the grant of wages, bonus and uniform to an individual workman in absence of proof that the demand leading thereto was espoused by a substantial number of workmen, is not an industrial dispute either under section 10 or under section 2-A of the Industrial Disputes Act and the reference made as such is obviously bad in law and liable to be quashed.

I order accordingly with a direction that the workman is not entitled to any relief in any of the two references on the ground stated above. I return the award with the findings made by me above.

MOHAN LAL JAIN,

Presiding Officer,
Labour Court, Haryana, Rohtak.

No. 726, dated the 18th March, 1976

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

MOHAN LAL JAIN,
Presiding Officer,
Labour Court, Haryana, Rohtak.

No. 3455-4Lab-76/15241.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak, in respect of the dispute between the workmen and the management of M/s Ashok Metal Industries, Jagadhri (Ambala).

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BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, LABOUR COURT, HARYANA,
ROHTAK

Reference No. 136 of 1972

*between*SARVSHRI BABU RAM AND SHIV KUMAR WORKMEN AND THE MANAGEMENT OF M/S
ASHOK METAL INDUSTRIES, JAGADHRI (AMBALA)

AWARD

By order No. ID/Amb/195-A-72/11596, dated 5th April, 1972, the Governor of Haryana referred the following dispute between the management of M/s Ashok Metal Industries, Jagadhri (Ambala) and its workmen Sarvshri Babu Ram and Shiv Kumar to this Labour Court, in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of services of the following workers was justified and in order ? If not, to what relief are they entitled ?

1. Shri Babu Ram, son of Ram Chander.
2. Shri Shiv Kumar.

The parties put in their appearance in this Court and filed their pleadings giving rise to the following issues framed, —*vide* order dated 12th February, 1973.

1. Whether the present dispute was properly espoused ? (If not with what effect ?)
2. Whether the termination of services of Shri Babu Ram and Shiv Kumar was justified and in order ? If not, to what relief are they entitled ?

Shri Madhu Suden Saran Cowshish authorised representative for Shri Babu Ram workman made a statement before me on 26th November, 1975 withdrawing the demand of Babu Ram workman leading to the reference. Shri Shiv Kumar other workman being however not served with a notice directing him to appear before me on that date, orders for his service of the notice of reference again were made on the aforesaid date. Shri Shiv Kumar did not appear before me on 23rd March, 1976 despite personal service of notice of reference effected on him on 23rd February, 1976 leading to a conclusion that he also was not interested in pursuing the demand made by him leading to the reference.

It would thus appear that whereas Shri Babu Ram workman has withdrawn his demand. Shri Shiv Kumar workman is not interested in pursuing the demand made by him and there is therefore now no dispute between the parties requiring adjudication. I hold accordingly and answer the reference while returning the award in term of the findings made by me.

MOHAN LAL JAIN,

Dated, the 31st March, 1976.

Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 789, dated 31st March, 1976

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

MOHAN LAL JAIN,

Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 3453-4Lab-76/15243.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak in respect of the dispute between the workmen and the management of M/s Accurex Optica Industries, Model Town, Jagadhri.

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, LABOUR COURT, HARYANA ROHTAK

Reference No. 58 of 1975

between

SHRI DINESH KUMAR GUPTA WORKMAN AND THE MANAGEMENT OF M/S ACCUREX OPTICA INDUSTRIES, MODEL TOWN, JAGADHRI

AWARD

By order No. ID/AMB/220/J-75/37330, dated 30th June 1975 the Governor of Haryana referred the following dispute between the management of M/s Accurex Optica Industries, Model Town, Jagadhri and its workman Shri Dinesh Kumar Gupta to this Labour Court, in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947.

Whether the termination of services of Shri Dinesh Kumar Gupta was justified and in order? If not, to what relief is he entitled?

The parties put in their appearance in this Court in response to the usual notices of reference sent to them and filed their pleadings.

Shri Surinder Kumar authorised representative for the workman made a statement before me on 23rd March, 1976, withdrawing the demand raised by the workman on the management leading to this reference, on the ground that the same had been satisfied.

It would thus appear that there is now no dispute between the parties requiring adjudication. I hold accordingly and answer the reference while returning the award in terms of the findings made by me.

MOHAN LAL JAIN,

Dated the 31st March, 1976.

Presiding Officer,
Labour Court, Haryana, Rohtak.

Endorsement No. 787, dated the 31st March, 1976.

Forwarded (four copies), to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

MOHAN LAL JAIN,

Presiding Officer,
Labour Court, Haryana, Rohtak.

No. 3454-4Lab-76/15245.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak in respect of the dispute between the workman and the management of M/s Accurex Optica Industries, Jagadhri

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, LABOUR COURT,
HARYANA, ROHTAK

Reference No. 56 of 1975

between

SHRI JATINDER NATH ARORA WORKMAN AND THE MANAGEMENT OF M/S ACCUREX OPTICA INDUSTRIES, JAGADHRI

AWARD

By order No. ID/AMB/220-H-75/37324, dated 30th June, 1975 the Governor of Haryana, referred the following dispute between the management of M/s. Accurex Optica Industries, Jagadhri and its workman Shri Jatinder Nath to this labour court, in exercise of the powers conferred by clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947:—

Whether the termination of services of Shri Jatinder Nath Arora was justified and in order? If not, to what relief is he entitled?

The parties put in their appearance in this court in response to the usual notices of reference sent to them and filed their pleadings.

Shri Snrinder Kumar, authorised repesentative for the workman, made a statement before me on 23rd March, 1976, withdrawing the demand raised by the workman on the management leading to this reference on the ground that the same had been satisfied.

It would thus appear that there is now no dispute between the parties requiring adjudication. I hold accordingly and answer the reference while returning the award in terms of the findings made by me.

MOHAN LAL JAIN,

Presiding Officer,
Labour Court Haryana, Rohtak.

No. 786, dated 31st March, 1976

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

MOHAN LAL JAIN,

Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 3483-4Lab-76/15247.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak, in respect of the dispute between the workmen and the management of M/s Partap Metal Industries, Jagadhri (Ambala):—

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, LABOUR COURT,
HARYANA, ROHTAK

Reference No. 86 of 1974

between

SHRI NAURATA RAM, WORKMAN AND THE MANAGEMENT OF M/S PARTAP METAL INDUSTRIES, JAGADHRI (AMBALA)

AWARD

By order No. ID/AMB/299-A-74/38534-38, dated 2nd December, 1974, the Governor of Haryana referred the following dispute between the management of M/s Partap Metal Industries, Jagadhri and its workman Shri Naurata Ram to this Labour Court, in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the termination of services of Shri Naurata Ram was justified and in order? If not, to what relief is he entitled?

The management put in their appearance before me on 14th January, 1976, in response to the usual notices of reference sent to them. Report has however been received on the registered envelope sent for service of the notice of reference on the workman that the later was not found available on the address supplied by him and that Com. Hari Chand, General Secretary, Engineering and Metal Labour Union, Jagadhri, who actually raised the demand on behalf of the workman declined to accept service of the notice. It would thus appear that the workman was not interested in pressing the demand raised by him on the management, leading to this reference. This conclusion is also found supported by the written settlement produced by the management whereby the later were alleged to have paid Rs 100 to the workman in full and final settlement of all his claims against them under the reference.

I thus hold that there is now no dispute between the parties requiring adjudication. I answer the reference while returning the award in terms of the findings made by me.

Dated the 2nd April, 1976.

MOHAN LAL JAIN,

Presiding Officer,
Labour Court Haryana,
Rohtak.

No. 828, dated 2nd April, 1976

Forwarded (four copies) to the Secretary to Government, Haryana, Labour & Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

MOHAN LAL JAIN,

Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 3489-4Lab-76/15249.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak, in respect of the dispute between the workmen and the management of M/s. Harish Metal Works Jagadhri, (ii) Dinesh Metal Industries, Jagadhri:—

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, LABOUR COURT,
HARYANA, ROHTAK.

Reference No. 23 of 1973

between

SHRI SOHAN LAL, WORKMAN AND THE MANAGEMENT OF M/S. HARISH METAL WORKS, JAGADHRI, (II) DINESH METAL INDUSTRIES, JAGADHRI.

AWARD

This award shall dispose of references Nos. 23, 24, 25 and 26 all of 1973, consolidated together,—*vide* order, dated 24th November, 1975.

The Governor of Haryana, referred the following dispute for adjudication by this court, in each case, in exercise of the powers vesting in him under clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the termination of services of Shri Sohan Lal/Roshan Lal/Sumer Chand/Rameshwar Lal was justified and in order? If not, to what relief is he entitled?

The parties put in their appearance in each case on 18th March, 1974, in response to the usual notices of reference sent to them. On a request made by the management on that date for adjournment for filing of the written statement, the case was adjourned to 28th May, 1974. The tour of the then Presiding Officer fixed for that date at Ambala being however cancelled. Notice of the references were issued to the parties again for their appearance in this court on 18th December, 1974. Whereas each workman put in his appearance on that date, the management could not be served with the result that notices were sent a number of times thereafter for service of the management. The management did not put in their appearance even on 12th January, 1975, the date of hearing fixed in the case despite Shri Dharam Pal one of their partners being personally served with the notice of each one of these references with the result that *ex parte* proceedings were taken up against them on that date.

Whereas each one of Shri Sohan Lal, Rameshwar Lal, and Roshan Lal, supported his demand,—*vide* statement made by him on oath that his services were illegally terminated with effect from 2nd October, 1972, by the management without assigning any reason or holding any enquiry, Shri Madhu Sudan Saran Cowshish withdrew the demand raised by Sumer Chand, workman, on the management on the ground that he did not take interest in pursuing his case.

I see no reason to disbelieve the statement of Shri Sohan Lal, Rameshwar Lal and Roshan Lal, workmen particularly when the proceedings against the management are *ex parte* and they have not taken care to defend the demand of each one of these workmen for his reinstatement with continuity of his services and full back wages with effect from 2nd October, 1972, I accordingly relying on their statements and that of Shri Madhu Sudan Saran Cowshish, authorised representative of Shri Sumer Chand, hold the demand of Shri Sumer Chand as withdrawn and that of each one of Shri Sohan Lal/Rameshwar Lal and Roshan Lal as fully established with a finding that the termination of services of each one of these three workmen was unjustified and that he is entitled to reinstatement with effect from 2nd October, 1972, with continuity of service and full back wages.

Dated 2nd April, 1976

MOHAN LAL JAIN,

Presiding Officer,
Labour Court, Haryana, Rohtak.

No. 834, dated 2nd April, 1976

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

MOHAN LAL JAIN

Presiding Officer,
Labour Court, Haryana, Rohtak.

No. 3606-4Lab-76/15588.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of M/s Panipat Co-operative Sugar Mills Ltd., Panipat:—

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA,
[FARIDABAD]

Application No. 1 of 1976 under Section 33-A of the Industrial Disputes Act, 1947

Between

SHRI JAGMOHAN LAL WORKMAN AND THE MANAGEMENT OF M/S PANIPAT CO-OPERATIVE SUGAR MILLS LTD., PANIPAT

AWARD

This is a complaint made by one Shri Jagmohan Lal a workman of the Panipat Co-operative Sugar Mills Ltd., Panipat, under section 33-A of the Industrial Disputes Act, 1947, hereinafter referred to as the Act praying for grant of necessary relief arising from the dispute to him.

He alleged that he was retrenched by the management with effect from 9th April, 1971, and on a reference being made to this Tribunal in respect of the legality, or otherwise of the retrenchment, he was re-employed by the management with effect from 17th July, 1975, on a permanent basis during the pendency of the reference and that the management on 22nd December, 1975, changed his conditions of service without obtaining the permission of the Tribunal by transferring him to a job of a seasonal nature of grade III from that of a permanent nature grade IV, with an ulterior motive to involve him in a criminal case. He stated that whereas the new assignment dealt with cash handling, the original did not involve such a work and that whereas the new assignment was of touring nature the original assignment did not involve touring.

On a preliminary objection raised by the management relating to the maintainability of the complaint under section 33-A of the Act, the following preliminary legal issue was framed,—*vide* my order, dated 24th February, 1976.

Whether the petition under section 33-A of the Industrial Dispute Act, 1947, is maintainable on the assumption of the correctness of the allegations made by the petitioner (on applicant).

I have heard the learned authorised representatives for the parties with reference to the facts stated by the applicant in the complaint. It is found admitted that the reference pending in this tribunal related to the retrenchment from service of the applicant with effect from 9th April, 1971, much prior to 17th July, 1975, the date of his re-employment and the grievance made by the applicant related to the facts allegedly occurring subsequent to 17th July, 1975, the date of his re-employment. It would thus be proper to state *in extenso*, the relevant provisions of sections 33(1) and 33-A of the Act in order to judge if the management contravened these provisions entitling the workman to bring a complaint under section 33-A of the Act.

Section 33.—

Conditions of service, etc., to remain unchanged under certain circumstances during pendency of proceedings.—

(1) During the pendency of any conciliation proceedings before an arbitrator or a Conciliator Officer or a Board or of any proceeding before Labour Court or Tribunal or National Tribunal in respect of an industrial dispute, no employer shall—

(a) in regard to any matter connected with the dispute, alter, to the prejudice of the workman concerned in such dispute, the conditions of service applicable to them immediately before the commencement of such proceedings ; or

Save with the express permission in writing of the authority before which the proceedings is pending.

Section 33-A.—

Special provision for adjudication as to whether conditions of service etc., changed during pendency of proceedings.—Where an employer contravenes the provisions of section 33 during the pendency of proceedings before a Labour Court, Tribunal or National Tribunal any employee aggrieved by such contravention, may make a complaint in writing in the prescribed manner to such Labour Court, Tribunal or National Tribunal and on receipt of such complaint that Labour Court, Tribunal or National Tribunal shall adjudicate upon the complaint as if it were a dispute referred to or pending before it in accordance with the provisions of this Act and shall submit its award to the appropriate Government and the provisions of this Act shall apply accordingly.

It would appear from the admission of facts made by the applicant himself in the complaint that the grievances alleged are not in respect of any matter connected with the dispute referred to this Court and are on the other hand in respect of the matter subsequent to his re-employment on 17th July, 1975. The conditions of service applicable to the workman immediately before the commencement of the reference admittedly made before 17th July, 1975, cannot obviously be said to have been altered within the meaning of these terms as stated in section 33(1)(a) of the Act reproduced above so as to entitle the workman to bring a complaint under section 33-A of the Act, in view of the admission made by him that the grievances related to the period subsequent to 17th July, 1975 the date of his re-employment and not to the condition of service applicable to him immediately before the date of reference.

I thus agree with Shri R. L. Gupta authorised representative for the management that the complaint is misconceived and as such unmaintainable. I accordingly decide the aforesaid issue against the workman and dismiss the complaint.

Dated 6th April, 1976.

MOHAN LAL JAIN,

Presiding Officer,
Industrial Tribunal Haryana,
Faridabad.

No. 430, dated 7th April, 1976

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated 7th April, 1976.

MOHAN LAL JAIN,

Presiding Officer,
Industrial Tribunal, Harana,
Faridabad.

The 31st May, 1976

No. 3028-4Lab-76/15590.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak, in respect of the dispute between the workman and the management of M/s Model Co-operative Transport Co. Ltd; Mehrauli Road; Gurgaon:—

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, LABOUR COURT, HARYANA,
ROHTAK

Application No. 1 of 1973 under Section 33-A of the Industrial Disputes Act, 1947

Between

SHRI RAM NARAIN WORKMAN AND THE MANAGEMENT OF M/S MODEL
COOPERATIVE TRANSPORT CO. LTD, MEHRAULI ROAD, GURGAON

AWARD

This is an application made by the workman Shri Ram Narain under section 33-A of the Industrial Disputes Act, praying for quashing the order of his dismissal made by the management and reinstating him with continuity of his services and full back wages.

The applicant alleged that he had been dismissed by the management during the pendency of reference Nos. 25 and 33 of 1969 relating to his dismissal and that such an order made by the management without seeking permission or approval of the competent authority was illegal, and liable to be set aside.

The management resisted this application the plea that no reference to the dismissal of the workman was pending and the reference Nos. 25 and 33 of 1970 relating to the grant of wages, bonus and uniforms to the workman and not to his dismissal as alleged by him. They however admitted having made an order of dismissal of the workman during the pendency of reference Nos. 25 and 33 and gave out that such an order made by them was correct and justified in all respects. They denied having contravened the provision of section 33 of the Industrial Disputes Act.

The following issues were thus framed on pleas of the parties,—*vide* order, dated 23rd May, 1973.

(1). Whether there has been a contravention of provisions of section 33 of the Industrial disputes Act, 1947 as alleged by the complainant?

(2) If issue No. 1 is proved whether the dismissal from services of Shri Ram Narain complainant was justified and in order? If not, to what relief is he entitled?

I have heard the learned authorised representatives for the parties I decide the issues as under with reference to the admitted facts and the records relating to reference Nos. 25 and 33 of 1970 got attached with the record of this petition.

Issue No. 1

It is conceded on both sides that the order of dismissal of the workman was made during the pendency of references Nos. 64 and 55 of 1969 with Shri P. N. Thukral, Presiding Officer, Labour Court, Haryana and much before these were re-referred as reference Nos. 25 and 33 of 1970 by the Haryana Government to Shri O. P. Sharma, Presiding Officer, Labour Court after it had been held by the Punjab and Haryana High Court that the appointment of Shri P. N. Thukral, as Presiding Officer, Labour Court was illegal and he was as much not competent to hear and try the references pending before him.

It would thus appear from the aforesaid admitted facts that reference Nos. 64 and 55 of 1969 subsequently re-referred as reference Nos. 25 and 33 of 1970 each between Ram Narain and M/S Model Cooperative Transport Co. Ltd; were not legal reference before Shri P. N. Thukral who was not competent to hear and try the same. Having regard to the order of dismissal of the workman been admittedly made by the management before the matter was re-referred to a competent Labour Court, it can not be said that such an order was made during the pendency of the reference in contravention of the provisions of section 33 of the Industrial Disputes Act, even otherwise the allegations made by the workman that an order of his dismissal was made by the management during the pendency of reference relating to his dismissal is incorrect inasmuch as the reference made to the Labour Court were in respect of grant to him of bonus, wages and uniforms, etc. The complaint thus merits dismissal on this short ground. I accordingly dismiss the complaint.

dated 15th March, 1976

MOHAN LAL JAIN,

Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 725 dated 18th March, 1976

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

MOHAN LAL JAIN,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

The 2nd June, 1976

No. 2786-4 Lab-76/15774.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workmen and the management of M/s Alloy Cast Private Limited Plot No. 59, Industrial Estate Sector-6, Faridabad :

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 2 of 1976

Between

SHRI HARI PARSHAD, WORKMAN AND THE MANAGEMENT OF M/S ALLOY CAST PRIVATE LIMITED PLOT NO. 59, INDUSTRIAL ESTATE SECTOR-6, FARIDABAD

AWARD

By order No. ID/FD/902-A-75/750, dated 30th December, 1975, the Governor of Haryana, referred the following dispute between the management of M/s Alloy Cast Private Limited Plot No. 59, Industrial Estate

Sector-6, Faridabad and its workman Shri Hari Parshad to this Tribunal, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

Whether the dismissal of Shri Hari Parshad was justified and in order ? If not, to what relief is he entitled ?

Usual notices of the reference being sent to the parties. The management put in their appearance on 8th March, 1976 and a report was received that the workman could not be served on the address supplied by him repeated efforts as the office of the union was found closed. The workman was, therefore, proceeded with *ex parte* for want of his any other address on record.

The management relied upon a settlement Ex. M-1 alleged to have been arrived at between the parties under section 12(3) of the Industrial Disputes Act, whereby the workman was said to have received Rs 660 in full and final satisfaction of all his claim against the management including his right of reinstatement.

The management examined Shri C. P. Garg, their Assistant Manager, a signatory to the settlement Ex. M-1 on behalf of the management. He deposed that the workman in his presence received Rs. 660 in full and final settlement of all his claim and there was now no dispute between the parties requiring adjudication. I see no reason to disbelieve his statement particularly when it is found corroborated by the written settlement Ex. M-1 and the proceeding against the workman are *ex parte*. I therefore, relying on a statement, hold that all claims of the workmen against the management have since been satisfied and there is now no dispute between the parties requiring adjudication.

I answer the reference while returning the award in terms of the findings made by me.

Dated 8th March, 1976.

MOHAN LAL JAIN,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 356, dated 9th March, 1976

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated 9th March, 1976.

MOHAN LAL JAIN,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

The 3rd June, 1976

No. 3577-5Lab-76/10530.—In exercise of the powers conferred by section 64, read with section 112 of the Factories Act, 1948 (Central Act 63 of 1948) and with reference to Haryana Government, Labour Department, notification No. 10167-5Lab-75/28061, dated the 18th September, 1975, the Governor of Haryana hereby makes the following rules, namely :—

1. *Short title, extent and commencement.*—(1) These rules may be called the Factories (Haryana) Exempting Rules, 1976.

(2) They shall extend to the whole of the State of Haryana.

(3) They shall come into force at once and shall remain in force for a period of three years from the date of their commencement.

2. *Definitions.*—In these rules, unless the context otherwise requires,—

(a) "Act" means the Factories Act, 1948 ;

(b) "Chief Inspector" means the Chief Inspector of Factories, Haryana ; and

(c) "Manager" means the person responsible to the occupier for the working of the factory for the purpose of the Act.

3. Persons holding position of supervision or management.—(1) The following persons in factories, other than sugar factories, shall be deemed to hold positions of supervision or management, provided they are not required to perform manual labour as regular of their duties :—

- (i) Manager.
- (ii) General Manager.
- (iii) Factory Manager.
- (iv) Deputy Manager.
- (v) Deputy General Manager.
- (vi) Assistant Manager.
- (vii) Assistant Factory Manager.
- (viii) Labour Welfare Officer.
- (ix) Chief Welfare Officer.
- (x) Assistant Welfare Officer.
- (xi) Heads of Technical Departments.
- (xii) Engineers.
- (xiii) Assistant Engineers.
- (xiv) Foreman.
- (xv) Electrician Incharge.
- (xvi) Secretary to the Managing Agent.
- (xvii) Personal Assistant to the Managing Agent.
- (xviii) Personal Assistant to the General Manager.
- (xix) Overseers.
- (xx) Supervisors.
- (xxi) Paper Makers (Incharge of the Paper-making Section).
- (xxii) Head Store-Keepers.
- (xxiii) Watch and Ward Officer.
- (xxiv) Security Officer.
- (xxv) Head Time-Keeper or Time-Keeper where there is no post of Head Time-keeper.
- (xxvi) Line Superintendents.
- (xxvii) Power House Superintendents.
- (xxviii) Assistant Foreman.
- (xxix) Meter Inspector.
- (xxx) Telephone Supervisors.
- (xxxi) Permanent Way Inspectors.
- (xxxii) Chargeman.
- (xxxiii) Medical Officer.
- (xxxiv) Legal Officer.
- (xxxv) Welfare Officer.
- (xxxvi) Chief Draftsman.
- (xxxvii) Head of Planning and Progress.
- (xxxviii) Inspectors.
- (xli) Laboratory Incharge.
- (xli) Technicians.
- (xli) Despatch Incharge.
- (xlii) Any other person employed solely in the Supervisory capacity who is in the opinion of the State Government holds a position of supervision or management and is so declared by it in writing.

(2) The following persons shall be deemed to hold positions of supervision or management in sugar factories :—

- (i) General Manager.
- (ii) Deputy General Manager.
- (iii) Manager.
- (iv) Cane Manager.
- (v) Deputy Cane Manager.
- (vi) Cane Superintendent, where there is no Cane Manager.
- (vii) Chief Chemist.
- (viii) Labour Welfare Officer.
- (ix) Chief Engineer.
- (x) Secretary to the Managing Agent.
- (xi) Personal Assistant to General Manager.
- (xii) Cane Development Officer.
- (xiii) Secretary.
- (xiv) Deputy Secretary.
- (xv) Foreman.
- (xvi) Workshop Incharge.
- (xvii) Electrical Foreman.
- (xviii) Store Purchase Officer/Head Store-Keeper.

- (xix) Deputy Chief Chemist.
- (xx) Deputy Chief Engineer.
- (xxi) Electrical Engineer.
- (xxii) Chemist.
- (xxiii) Laboratory Incharge.
- (xxiv) Labour Superintendent.
- (xxv) Labour Officer.
- (xxvi) Legal Officer.
- (xxvii) Watch and Ward Officer/Incharge, Watch and Ward.
- (xxviii) Medical Officer.
- (xxix) General Secretary.
- (xxx) Head Electrician.
- (xxxi) Assistant Engineer/Shift Engineer.
- (xxxii) Overseer Incharge.
- (xxxiii) Transport Inspector Incharge.
- (xxxiv) Assistant Manager.
- (xxv) Security Officer.
- (xxvi) Manufacturing Chemist.
- (xxvii) Supervisors.
- (xxviii) Civil Engineers.
- (xil) Inspectors.
- (xil) Cane Officer Incharge.
- (xli) Time-keeper.
- (xlii) Any person who in the opinion of the State Government holds a position of supervision or management and is declared by it in writing.

4. *Persons employed in confidential positions.*—The following persons shall be deemed to hold confidential position in a factory :—

- (i) Stenographer attached to the Head of Department.
- (ii) Officer Superintendent.
- (iii) Head Clerk where there is no Officer Superintendent.
- (iv) Head Munim where there is no office Superintendent or Head Clerk.
- (v) Head Accountant or Accountant where there is no Head Accountant.
- (vi) Head Time-Keeper or Time-keeper where there is no Head Time-keeper.
- (vii) Cashier.
- (viii) Any other person, who in the opinion of the State Government holds a confidential position and is so declared by it in writing.

5. *Maintenance and exhibition of list of person holding confidential positions or position of supervision or management.*—A list showing the names and designations of all persons employed in the factory of whom the provisions of sub-section (1) of section 64 have been applied shall be maintained and exhibited at a conspicuous place in the premises of each Factory.

6. *Exemption of certain adult workers.*—Adult workers engaged in factories specified in column 2 of the Schedule given below on the work specified in column 3 shall be exempted from the provision of the sections specified in column 4 subject to the conditions, if any, specified in column 5 thereof and a notice to this effect

Showing the names of the workers, to be employed at a conspicuous place in the factory and a copy thereof shall be sent to the Inspector and the Chief Inspector

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Section of the Act empowering the grant of exemption	Class of Factories	Nature of work on which employed	Extent of exemption	Conditions
64(2) (a) and 64 (3)	All Factories	<p>Workers engaged on urgent repairs, The following shall be considered to be urgent repairs :—</p> <p>(a) Repairs to any part of the machinery, plant or structure of factory which are of such a nature that delay in their execution would involve danger to human life or safety or the stoppage of manufacturing process</p> <p><i>Explanation.—Periodical cleaning is not included in the terms "examining" or "repairing"</i></p> <p>(b) Break-down repairs to motive power, transmission or other essential plant of factories, collieries, railway, tramways, motor transport, gas, electrical generating and transmission, pumping carried out in engineering work and foundries which are necessary to enable such concerns to maintain their main manufacturing process, production or service during normal working hours or according to schedule.</p>	<p>Sections 51, (i) No worker shall be employed for more than 15 hours on any one day or 39 hours during any three consecutive days or 70 hours during each period of seven consecutive days commencing from his first employment on urgent repairs.</p> <p>(ii) Within twenty-four hours of the commencement of the works notice shall be sent to the Inspector describing the nature of the urgent repairs, the names of persons employed and the exact time of commencement of work and the probable period required for its completion</p> <p>(iii) Exemption from the provisions of section 5 of the Act shall apply only in the case of male adult workers</p> <p>(iv) No worker shall be employed for more than 14 consecutive days without a rest period of 24 hours</p>	

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(c) Repairs in connection with a change of motive power, for example, from steam to electricity or *vice versa*, when such work cannot possibly be done without stoppage of the normal manufacturing process

Workers engaged in work in the nature of preparatory or complementary work which must necessarily be carried on outside the limits laid down for the general working of the factory.

(i) Work in the Boiler Houses, Engine Rooms, Mechanic Shops, the smithy or the foundry or furnaces of rolling mills or in connection with the mill gearing the electric driving or lighting apparatus the mechanical or electrical lifts or the steam or water or pumps of a pipes factory.

Sections 51, 54, 55 and 61 (a) In case of exemption from sections 51 and 54, no worker shall work for more than 10 hours per day or 60 hours per week.

(b) In case of exemption from section 55 rest for half-an-hour shall be given for meals to each worker during the first six hours of his work.

(c) Spread over inclusive of intervals for rest shall not exceed 12 hours in any one day.

(ii) Work of examination or carrying out minor repairs of any machinery or other part of the plant

Sections 51, 54, 55, 56 and 61. (a) In case of exemption from sections 51 and 54, no worker shall work for more than 10 hours per day or 60 hours per week.

(b) In case of exemption from section 55 rest for half-an-hour shall be given for meal to each worker during the first six hours of his work.

(c) Spread over inclusive of intervals for rest shall not exceed 12 hours in any one day.

(iii) Work of preparation
of pay rolls

Sections 51, 54 In case of exemption from sections 51 and 54, no worker shall work for more than 10 hours per day or 60 hours per week.

(b) Spread over inclusive of intervals for rest shall not exceed 12 hours in any one day.

64(2) (c) and
64(3)

All Factories

Workers engaged in work which is necessarily so intermittent that the intervals during which they do not work while on duty or ordinarily amount to more than the intervals for rest required by or under section 55

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				(g) exemption from the provision of section 61 of the Act will apply in so far as it relates to the specifications of the period of rest intervals in the notice of periods of work and weekly off day.
64(2)(e) and 64 (3)	Factories manufacturing articles of prime necessity	Workers engaged in making or supplying articles of prime necessity which must be made or supplied every day	Section 52	In case of exemption from section 54 where the work is of continuous nature, the worker shall get 24 hours rest by rotation after six days work in the manner laid down in section 52 of the Act.
64(2)(f)	Seasonal factories	Workers engaged in a manufacturing process which cannot be carried on except during fixed seasons	Section 52	In case of exemption from section 52 where the work is of continuous nature the worker shall get 24 hours rest by rotation after 6 days in the manner laid down in section 52 of the Act.
64(2)(g)	Rice Mills	Workers engaged in a manufacturing process which cannot be carried on except at times dependent on the irregular action of natural forces (work of boiling, drying, lifting and storing of paddy in rice mills)	Section 52, 55 and 61	() In case of exemption from section 52 where the work is of continuous nature the worker shall get 24 hours rest by rotation after 6 days work in the manner laid down in section 52 of the Act.
*64(2)(h)	All Factories	Workers engaged in engine rooms or boiler houses or in attending to power plant or transmission machinery.	Section 52	(b) In case of exemption from section 55, rest for half-an-hour shall be given for meals to each workers during the first six hours of his work.
64(2)(i)	Factories where printing of newspapers is carried on	Workers engaged in the printing of newspaper who are held up on account of the breakdown of Machinery	Sections 52, 54 and 56	(c) Exemption from the provision of section 61 of the Act will apply in so far as it relates to the specifications of the period of rest intervals in the notice of periods of work and weekly off day.
				(*) In case of exemption from section 52 where the work is of continuous nature the worker shall get 24 hours rest by rotation after 6 days work in the manner laid down in section 52 of the Act.
				(a) In case of exemption from section 52 where the work is of continuous nature. The worker shall get 24 hours rest by rotation after 6 days work in the manner laid down in section 52 of the Act.

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See previous page

64(2)(i) and 64 (3) All Factories

Workers engaged in the loading, unloading of railway wagons, goods, vehicles, tractors or trolleys

(b) In case of exemption from section 54, no worker shall work for more than 10 hours per day, 60 hours per week.

(c) Spread over inclusive of intervals for rest shall not exceed 12 hours in any one day.

(a) In case of exemption from sections 51 and 54, no worker shall work for more than 10 hours per day or 60 hours per week.

(b) In case of exemption from section 52, where the work is of continuous nature the worker shall get 24 hours rest by rotation after 6 days work in the manner laid down in section 52 of the Act.

(c) In case of exemption from section 55, rest for half-an-hour shall be given for meals to each worker during the first six hours of his work.

(d) Spread over inclusive of intervals for rest shall not exceed 12 hours in any one day.

(e) Exemption from the provision of section 61 of the Act will apply in so far as it relates to the specifications of the periods of rest intervals in the notice of periods of work and weekly off day.

P. P. CAPRIHAN, Secy.

PUBLIC WORKS DEPARTMENT

BUILDINGS AND ROADS BRANCH

Circle Ambala

Notification

The 4th June, 1976

No. 525.—Whereas the Governor of Haryana is satisfied that land specified below is needed by the Government, at public expense, for a public purpose, namely, Jagadhri Bari Pabri road to village Marwa Khurd, tehsil Jagadhri, district Ambala it is, therefore, hereby declared that the land described in the specification below is required for the aforesaid purpose.

This declaration is made under the provisions of section VI of the Land Acquisition Act, 1894 to all whom it may concern and under the provision of section 7 of the said Act, the Land Acquisition Collector, Haryana, P.W.D., B & R Branch, Ambala Cantt is hereby directed to take order for the acquisition of the said land.

Plans of the land may be inspected in the offices of the Land Acquisition Collector, Haryana, P.W.D., B & R Branch, Ambala Cantt and the Executive Engineer, Construction Division, Jagadhri.

SPECIFICATION

District	Tehsil	Locality/Village Hadbast	Area in acres	Rectangle/Killa No.
Ambala	Jagadhri	Bari Pabni	4.25	14= 18/1, 18/2, 19, 21, 22/1, 22/2, 23 15= 12, 13, 18/2, 19, 22/1, 22/2, 23. 24= 2/2, 3, 5, 6/1, 6/2, 7, 8, 9, 12, 13, 14/1, 14/2, 15/1, 17, 18/1, 18/2, 19/1, 19/2, 21, 22/1, 22/2, 23. 34= 1, 2, 10/2 37= 1/1, 1/2, 1/3, 1/4, 2/1/1, 2/1/2, 3/1, 3/3, 4/2, 4/3, 5, 6/1, 6/2, 7, 8, 9, 10/1 38= 5, 6 39= 90, 92, 93, 95
Do	Do	Ganwella	4.53	2= 25/1, 25/2, 25/3 3= 3, 7, 8, 12 to 14, 19 to 21, 26 7= 5, 6, 15, 16, 17/1, 17/2, 17/3, 18/1, 18/2, 19, 21, 22/1, 22/2, 22/3, 26, 29, 30 11= 5/2, 6/1, 6/2, 13, 14/1, 14/2, 15, 17, 18/1, 18/2, 19, 21, 22/1, 22/2, 23, 7 12= 1/1, 1/2, 2, 10 15= 1/1, 1/2, 2, 10 16= 5, 6/1, 6/2, 7, 13/2, 14/1, 14/2, 15/1, 17/2, 18, 20 to 22, 24, 28 to 30, 42, 46 to 55.
		Total	8.78	

(Sd).

Superintending Engineer,
Ambala Circle.